Administrative Procedures for Environmental Assessment of Major Mining Projects in Yukon

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INTRODUCTION

Since the turn of the century, the mineral sector has provided a basis for northern economic development through the establishment of major communities and the extension of transportation, communication and social infrastructures.

The Government of Canada believes that mining will continue to be an important contributor to Canada's well being, both nationally and regionally. As is stated in the *Whitehorse Mining Initiative*, "Our vision is of a socially, economically and environmentally sustainable, and prosperous mining industry, underpinned by political and community consensus".

Responsible management of natural resources requires a cooperative approach with developers and stakeholders to ensure that government is satisfying legal responsibilities, while ensuring well designed projects can proceed in a timely fashion. This will help ensure that Yukoners can enjoy the benefits and opportunities that can come with mining activities.

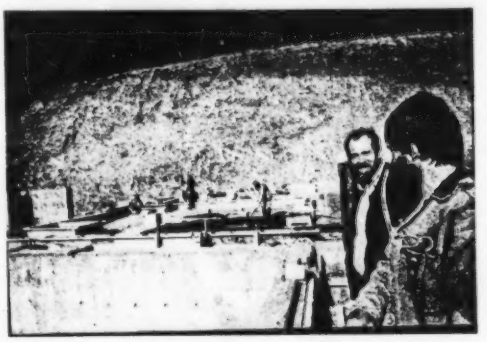
In order to help ensure that environmental, economic and social considerations are integrated effectively in its decisions on minerals and metals issues, the government of Canada recognized, in the Minerals and Metals Policy, the role of non-regulatory approaches. As stated in this policy, "Non-regulatory approaches sometimes offer the most efficient means of meeting a desired policy objective, and are thus important to governments and industry and a complement to regulation." Efficient project management and administrative processes are examples of non-regulatory approaches.

The Department of Indian Affairs and Northern Development (DIAND) is responsible for management of mineral resources in the Yukon. DIAND is committed to using clear and efficient administrative processes in carrying out environmental assessments for mining project proposals.

This document, entitled "*Administrative Procedures for Environmental Assessment of Major Mines in the Yukon*" outlines the administrative processes to be used by DIAND as lead responsible authority in Yukon to ensure the efficient and effective environmental assessment of major mining developments.

This document outlines key administrative procedures designed to ensure a clear and efficient administration of the environmental assessment process for major quartz mining operations. These administrative procedures are built upon the following key principles:

- Changes to regulations are not needed to bring them into effect;
- The quality of the environmental assessment must not be compromised;



- Administrative processes should be clear, consistent, efficient and coordinated and understood by the proponent; and,

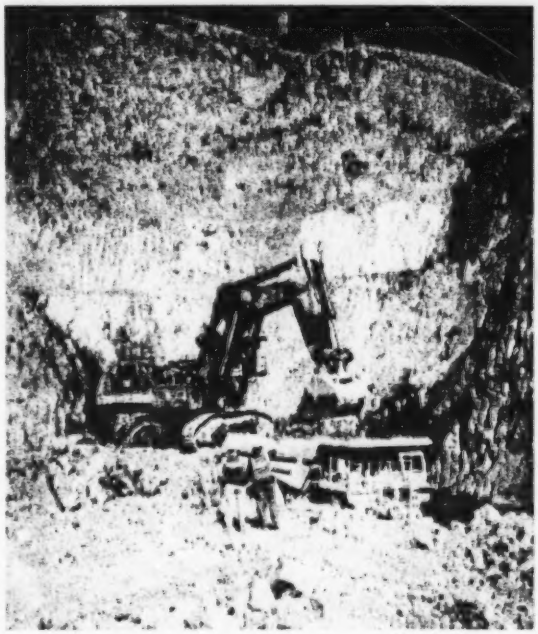
- Requirements of the *Canadian Environmental Assessment Act* (*CEAA*) and other statutes must be met by government and proponents alike.

It is important to note that the majority of the administrative processes described in this document are to be **applied only to major mining projects in the Yukon**.

Major mining projects are defined in this report as projects regulated under the *Yukon Quartz Mining Act* requiring a quartz licence under Section 139 of that Act and a Type A water license under the *Yukon Waters Act*, issued by the Yukon Territorial Water Board. Major mining projects do not include placer mining activity or quartz exploration of mining activity requiring a Type B water license or no water license.

As major mining projects enter and proceed through the environmental assessment process, there may be opportunities to improve administrative processes that are outside of, or not described in this document. DIAND encourages such improvements, in consultation with the proponent and other RA's. However, this document will continue to be the basis of how administrative processes are carried out. It will be updated on a regular basis and made available to major mining proponents and other interested parties.

The administrative procedures described in this document must be consistent with CEAA legislation and policies and procedures of the federal government, many of which are developed nationally by the Minister of Environment.



EXECUTIVE SUMMARY

This document entitled "*Administrative Procedures for Environmental Assessment of Major Mining Projects in Yukon*" summarizes key changes designed to improve and/or clarify the administration of the environmental assessment process and improve the planning, design and operation of major mining projects in the Yukon. Specifically, this document:

- Clarifies the process for Level I and Level II assessments and the preparation of Project Description, Environmental Assessment Report and Environmental Screening Report;
- Clarifies role of Regional Environmental Review Committee and documents terms of reference;
- Provides for generic guidelines for preparation of Project Descriptions and Environmental Assessment Reports;
- Commits to providing time line estimates to proponents;
- Proposes a "Project Agreement" between proponent and government setting out how environmental assessment will be managed; and
- Proposes a Yukon Major Projects Advisory Committee to provide a forum for non-technical issues to be raised and discussed.

In addition, DIAND and the Yukon Territorial Water Board (YTWB) are developing a Protocol clarifying the relationship between Environmental Assessment (led by DIAND) and Regulatory approval (led by the Board). Changes proposed include:

- extending consultation on draft environmental screening report until water license public hearing is completed;
- ensures intervenors have time to review the draft screening report prior to preparing interventions;
- introduces concept of technical edit of draft water license prior to approval; and
- commits to develop information guidelines for environmental assessment. Also commits to develop guidelines for design standards for various aspects of quartz mining.

In addition the department has completed a document entitled "Yukon Quartz Mine Licensing" which clarifies the process to be followed to obtain a license under the *Yukon Quartz Mining Act*. This document will be utilized until regulations can be developed over the next year.

All of these improvements have either been implemented or are near completion. The final protocol between DIAND and YTWB is under negotiation. This will be incorporated as an attachment when finalized.

1.0 ADMINISTRATIVE PROCEDURES FOR ENVIRONMENTAL ASSESSMENT

Under the *Canadian Environmental Assessment Act* (*CEAA*), the federal government is responsible to ensure that major mining projects undergo an environmental assessment before regulatory approvals are given and before physical work commences. DIAND is always a Responsible Authority (RA) and often the lead RA for major mining projects in the Yukon. As lead RA, DIAND coordinates the efforts of other federal RA's, specialist departments and reviewers. The administrative procedures described in this document only apply to DIAND.

Environmental Assessment (EA) is a planning tool to predict and evaluate environmental effects. The assessment process seeks to determine if the adverse environmental effects of a project are significant, and if so, if they can be mitigated and/or justified, and whether the project should proceed. The proposed administrative procedures for environmental assessment are intended to encourage partnership among the proponent, federal government departments, other governments and stakeholders in order to promote good communication, timeliness of assessment and to facilitate resolution of issues.

1.1 General Requirements under *CEAA*

The fundamental purpose of *CEAA* is to ensure that federal decision-makers evaluate the environmental effects of a proposed project through the conduct of a single assessment, before taking any action that would permit a project to proceed.

CEAA has four stated objectives:

(a) To ensure that the proposed project's environmental effects are carefully considered before a Responsible Authority (RA) takes action;

(b) To promote sustainable development, thereby achieving or maintaining a healthy environment and a healthy economy;

(c) To ensure that projects proposed or that require the federal government to either make an authorization or funding decision on federal lands, do not cause significant adverse environmental effects outside the jurisdictions where they are carried out; and

(d) To ensure an opportunity for public participation in the EA process.

The following principles are used in the application of *CEAA*:

(a) EA is a project planning tool that is most effective when carried out early in the planning and design stages, before any irrevocable decisions are made;

(b) The EA process is efficient, timely, fair, cost-effective and be carried out at a level of effort that matches the scale and complexity of likely effects of the project;

(c) The EA process facilitates and coordinates the input by agencies and

stakeholders to ensure that their concerns are adequately addressed;

(d) Public participation is an important element of an open and balanced EA process.

CEAA outlines the following types of EA:

- Screening
- Class screening
- Comprehensive study
- Mediation
- Panel Review

EA is conducted by federal departments with decision-making responsibilities under *CEAA*. A federal authority that either proposes a project or provides support in the form of funding, land, permit, licence or other approval specified by *CEAA* regulation, is the Responsible Authority (RA) for that project. There may be more than one RA for a project.

However, according to the Federal Coordination Regulations under *CEAA*, the Ras determine how they will coordinate their reviews. DIAND is an RA for major mining projects in the Yukon. Other federal authorities may also be RA's (such as the Natural Resources Canada and the Department of Fisheries and Oceans). The RA determines the degree of public participation in the assessment of projects.

While the outcome of EA may impose constraints on entrepreneurial decisions, it is the proponent's prerogative to decide on the economic viability and profitability of a project given market conditions at the anticipated time of start-up. It is a function of good government to be both cognizant and responsible for ensuring process efficiencies and this may involve using tools such as time lines for environmental assessment.

Environmental assessment screenings, class screenings and comprehensive studies are all conducted by RA's. Mediation and Panel Reviews are conducted by the Minister of Environment and the Canadian Environmental Assessment Agency. Because Mediation and Panel Reviews are advisory, not decision-making procedures, the RA remains responsible for determining whether it will provide federal approval for a project. At any time during a screening or comprehensive study, the Minister of Environment can order a mediation or panel review based on certain criteria. The RA may also request mediation or panel review from the Minister.

1.2 Application of *CEAA* to Major Mining Projects in Yukon

In the Yukon, the Northern Affairs Program (NAP) of DIAND is responsible for management of most surface and subsurface resources on federal crown land. NAP uses a three-level process to conduct environmental assessments:

- Level I - simple and small scale screenings;
- Level II - screenings and comprehensive studies for more complex projects.
- Mediation and Panel Reviews

Level I and Level II are NAP administrative designations rather than prescriptions of *CEAA*. While Level I projects tend to be

routine and involve permitting according to pre-established standards and mitigation measures, they may be referred to Level II status.

The screening of Level II projects is coordinated by the Environment Directorate of NAP with the assistance of the Regional Environmental Review Committee (RERC - please refer to section 1.3).

Major mining projects requiring Type A water Licences and a Quartz Mining licence in the Yukon are screened at Level II. Level II includes two types of environmental assessment described by *CEAA*: screenings and comprehensive studies.
The Comprehensive Study List, a regulation under *CEAA*, identifies major projects that automatically require a more comprehensive assessment due to the potential for significant adverse environmental effects or public concerns.

These administrative procedures are intended to be used for Level II projects. In the case of a Comprehensive Study, other procedures may be applied. In this case, the Minister of Environment makes the determination and will require additional conditions. However, the procedures in this document will be used to the greatest extent possible.

Generally, there are three stages involved with a Level II screening:

- Project Description
- Environmental Assessment Report
- Environmental Screening Report.

A) Project Description

Based on Project Description Information Guidelines (please refer to section 1.4), proponents prepare and submit a Project Description to DIAND. The information guidelines are intended to identify information requirements for all (not just DIAND) Responsible Authorities (RA's).

The Project Description assists the proponent, the RA's and the public in understanding the nature of the project and forms the basis for the development of an Environmental Assessment Report.

Early on in the project planning, proponents are also encouraged to consult with affected communities, stakeholders, First Nations and the Government of the Yukon. This consultation will help proponents in defining the scope of assessment.

The Project Description is also used to determine if there are public concerns for the project. Proponents are encouraged to work closely with the affected First Nations and DIAND may also provide for the involvement of the Yukon First Nations in managing the assessment in recognition of the Umbrella Final Agreement and in the spirit of the upcoming Development Assessment Process.

Upon receipt, DIAND reviews the Project Description for adequacy and refers it to the Regional Environmental Review Committee (RERC) and makes the information available to stakeholders.

At this point, there may be an opportunity for the proponent to enter into a formal project agreement to further clarify the details of the administrative process.

Based on the information provided by the proponent in the project description and as may be outlined in the project agreement, DIAND, with the assistance of RERC, prepares Environmental Assessment Report (EAR) guidelines that identify the information required from the proponent in order for DIAND to complete an environmental assessment of the project.

Notwithstanding the issuance of EAR guidelines, DIAND may request proponents provide additional information during the assessment because of new issues that arise, or to resolve outstanding issues.

In consideration of concerns with the delays and expenses involved, DIAND will keep these requests for additional information to a minimum and ensure they are necessary for the assessment.

B) Environmental Assessment Report (EAR)

The *EAR* is a documented evaluation of the project proposal prepared by the proponent in response to specific *EAR Information Guidelines* and issues raised by the public. In it, the proponent refines the plan for the project, defines the expected environmental effects, the planned mitigation and any residual adverse environmental effects.

Proponents are required to demonstrate how they have dealt with all concerns raised by RERC, technical specialists and the public. Proponents may attempt to define the likelihood and significance of any residual adverse environmental effects, though the final determination on the significance of effects and whether the project may proceed rests with the RA(s).

RA's review the EAR as the basis for conducting their environmental assessment and making their final determination in the Environmental Screening Report (ESR). RA's review the required mitigation or/and follow-up measures and assess the likelihood of adverse environmental effects following mitigation. The final determination, will dictate if the project can proceed to the regulatory phase for permitting.

Quality projects that are planned to minimize adverse environmental effects and are presented clearly in the EAR improve not only the timeliness of the ESR but also the likelihood of a "positive" determination.

C) Environmental Screening Report (ESR)

The *Environmental Screening Report* (ESR) is prepared by the RA/RA's and is a legislated requirement in *CEAA* Section 11. The ESR is used to make a determination under Section 20 by the RA/RA's and documents their findings. The ESR documents the results of the RA(s) assessment of the Project Description and EAR and contains one of three possible determination under Section 20 of *CEAA*:

1. The project may proceed if it is not likely to cause significant environmental effects;

2. The project may not proceed if there are likely to be significant adverse environmental effects that cannot be justified; or

3. If the project is likely to generate significant effects but those effects may be justified, then the project must be referred to a mediator or panel review. A project may also be

referred to a panel review or mediation where there are significant public concerns.

Copies of the ESR can be viewed at the public registry, public libraries and DIAND District offices.

The ESR will initially be produced in draft form for review. The draft ESR is circulated to allow RERC, the public, technical and specialists to ensure all concerns have been addressed. Following review of the draft version, the ESR will be finalized and the RA(s) will make their respective *CEAA* Section 20 determination. If there is more than one RA, it is desirable they agree on a shared determination but not mandatory. Unlike preparation of the ESR the final determination cannot be delegated.

The RA(s) ensure that the mitigation measures identified in the ESR are implemented. If there are likely to be significant adverse environmental effects, Section 20 prevents the RA(s) from taking any action that would allow the project to proceed. The RA(s) must refer the project to the Minister of Environment for further review if there is uncertainty or if the RA(s) believes that despite the likelihood of significant adverse environmental effects, the project may be justified.

If the project is approved, then it may proceed to the regulatory stage for the issuance of licenses, permits, leases, etc. The regulator may require more detailed information from the proponent for their specific approval and permitting processes. Mitigation measures are included in the terms and conditions of the regulatory instruments. Mitigation measures maybe addressed through a separate agreement between DIAND and the proponent.

1.3 The Regional Environmental Review Committee (RERC):

RERC, chaired by DIAND's Environment Director, consists of representatives from federal and territorial departments and affected First Nations, the Project Manager for each project and a secretariat. This multi-disciplinary, inter/intra governmental advisory committee was established by DIAND to assist with the environmental assessment of Level II projects.

RERC provides specialist or expert information/knowledge to DIAND to assist the environmental assessment process. RERC also provides advice to proponents on effectiveness of mitigation measures in relation to proposed project design.

If other federal departments, territorial agencies or First Nations are regulatory decision-makers for a project, DIAND often plays a coordinating role in the environmental assessment. RERC provides technical, specialist or expert advice to be included in such coordinated reviews.

RERC is managed by the Chair with Project Managers identifying specific project tasks. Smaller scale projects that would ordinarily undergo a Level I review may be referred to a Level II review involving RERC. Proponents may also request that their project be referred to RERC. The decision as to where these projects will undergo a Level II review rests with the Chair.

RERC members participate within their specific mandates to assess the likelihood and significance of adverse environmental

effects of a project. They work cooperatively with Project Managers and proponents to ensure there is a clear understanding of environmental assessment requirements and project-specific issues that must be resolved. Specialists are invited to participate where there is a direct interest in or responsibility for a project. Proponents and the public can attend most meetings of the committee as observers.

To aid the efficiency of the assessment process, technical or socio-economic issues may be addressed by sub-groups of the RERC established for specific projects, and may include participation of external consultants.

The revised Terms of Reference for RERC are attached. **The RERC Terms of Reference will apply to all DIAND Level II environmental assessments**.

1.4 Environmental Assessment Information Requirements

To assist proponents in meeting environmental assessment requirements, guidelines for Project Descriptions and Environmental Assessment Reports (EAR's) have been developed. These guidelines provide generic baseline EA information requirements for all Type A quartz mining projects. The objective of the guidelines is to streamline the EA process by providing guidance to proponents early in the process as to the information they will be required to provide for an environmental assessment.

Project Descriptions and EARs submitted in compliance with comprehensive guidelines, should satisfy information requirements pursuant to *CEAA*. It is recognized, however, given each proposal's unique environmental setting and project design, supplementary information to the guidelines may be required to complete an assessment. In some cases, it may be necessary to create project-specific EAR guidelines. These guidelines will be developed by DIAND in consultation with the proponent and with the assistance from RERC members.

The effectiveness of generic guidelines will be measured by the elimination of delays and duplication of information requests by the RA's. Clear information requirements early in the assessment process will contribute to improving the quality of the environmental assessment by ensuring that the right kind and amount of information is available to RA(s) when assessing the impacts of a project.

To ensure the final EAR report meets the requirements of *CEAA* and the guidelines, regular reporting on development of the EAR by both the proponent and RERC, as well as information sharing at the technical level (by both government and proponent), is necessary. Project Description guidelines and EAR guidelines will be kept updated by DIAND.

Guidelines for regulatory requirements can also assist in streamlining the approval process for proponents. Some critical aspects of mine design (e.g. heap leach pad liner requirements; design criteria requirements for dams and spillways both during operations and closure) will benefit from regulatory guidelines. By determining acceptable design specifications in advance, it will be much easier for the proponent to design a project and for the RA to assess overall impacts of these important project components. The Yukon Territory Water Board in conjunction with DIAND and other

Federal Departments is developing such guidelines for Type A water use licences for quartz mining undertakings.

These guidelines should not be so prescriptive as to prevent a proponent from seeking innovative approaches which meet the objectives of carrying out a project while protecting the environment.

1.5 Time lines

Protracted environmental reviews can be expensive and frustrating for all stakeholders.

Prior to the existence of *CEAA*, environmental assessment had no legislated time lines. With the inception of the *CEAA* Federal Coordination Regulation, some time lines have been incorporated into the assessment process to ensure the efficient coordination of duties among federal authorities. The regulation sets time limits for federal authorities to identify themselves as RA's for specific projects. If a project has multiple RA's, the regulation requires them to release an agreed upon schedule for making EA determinations.

Over the last few years, the EA process for various mining projects has been evaluated. These reviews included the time it has taken to move the projects through the various EA steps. The extremes and means of time elapsed were examined and an assessment has been made as to how recommended process changes may shorten these times.

Using this information DIAND has agreed to provide proponents with a time line estimate for moving projects through the EA process (Attachment 5). It should be noted that these time lines are not legislated, but are intended to help guide the assessment and ensure it is done in a timely manner. The estimate is predicated by recognizing that time lines are affected by project complexity, quality of project submissions and availability of appropriate resources to complete the assessment.

1.6 Project Agreement

A formal agreement on the conduct of the EA is proposed. Such an agreement would be tried on a pilot basis with the consent of the proponent. The purpose of the Project Agreement is to provide an administrative mechanism between DIAND and the Project Proponent for the EA of major projects. It will help improve time lines by ensuring technical and financial resources have been identified in advance of the assessment.

The agreement is intended to clarify and provide transparency of the EA process. It will also provide a framework to enhance the discipline in preparing and reviewing the information required for the review. The draft Project Agreement framework describes how DIAND and the project proponent would cooperate to make the EA process streamlined, efficient and effective.

The Project Agreement will be based on the following guiding principles for the conduct of the environmental assessment:

- Shared Process - administered so as to be easily understood;
- Respect - demonstrates respect for all participants;
- Commitment - commitment to involvement by all participants;

- Time lines - facilitates timeliness in a responsive fashion;
- Communication - will foster an understanding of all views;
- Responsive - the assessment process will demonstrate responsiveness to all parties;
- Accountability - the assessment process will demonstrate accountability by all parties.

The framework for such an Agreement is provided in Attachment 6.

1.7 Procedural and Technical Issue Resolution

The proponent and the RA have historically experienced significant time delays in resolving differences of opinions on procedural and technical issues.

The following procedures are in place to resolve technical and procedural issues:

Technical Issues:

- Members of RERC or of project-specific Technical Sub-Committees may meet with the proponent to discuss a specific issue; and/or
- Proponents can discuss the issue with the Director, Environment Directorate, DIAND and/or other senior managers from other RAs, where applicable, and/or DIAND Director General, Yukon Region.

Procedural Issues:

A new Yukon Major Projects Advisory Committee (YMPAC) will be established to ensure senior level officials are monitoring the smooth and effective administration of the environmental assessment (EA) process in Yukon. The Committee will track any administrative problems in the EA process with a view to assist DIAND and, post-devolution, YTG, in facilitating the resolution of substantial controversial procedural issues arising from the process. Members of the committee or the proponent may refer a substantive non technical issue to YMPAC. (The terms of reference for YMPAC are provided in Attachment 7.)

Technical issues will continue to be addressed during the environmental review or regulatory stage as appropriate, and not by YMPAC.

2.0 ROLES AND RESPONSIBILITIES OF DIAND AND THE YUKON TERRITORY WATER BOARD

DIAND has the responsibility for overall water management in the Yukon. As well, the Yukon Territorial Water Board (YTWB) has the sole authorization to issue water licenses in the Yukon. There is a need to harmonize the procedures for environmental assessments required by *CEAA* and water license applications so that both processes can be accomplished in an efficient but thorough manner.

DIAND and the Yukon Territory Water Board (YTWB) have developed a draft Protocol to facilitate and better coordinate the environmental assessment and regulatory process for Quartz Type A water licenses. The protocol is intended to clarify how the two processes interrelate, and provides a more effective and efficient process.

The protocol will help by reducing uncertainty between the environmental assessment process and the regulatory process while maintaining compliance with the requirements and authorities of the *Yukon Waters Act*, the *Canadian Environmental Assessment Act*, the *Umbrella Final Agreement* and the *Yukon First Nation Final Agreements*.

Specifically, the draft Protocol:

- Clearly delineates the roles and responsibilities of DIAND and YTWB;
- Introduces the concept of extending consultation on the draft environmental screening report associated with major mine proposals until the water licence public hearing has taken place. This enables both the Board and the Responsible Authority (RA) to be informed, through the hearing process, of additional concerns. The *CEAA* determination and final screening rests with the RA;
- Seeks to ensure that all potential interveners have adequate time to review the draft screening report, prior to preparing their intervention;
- Introduces the concept of a technical edit of a draft water licence by interveners and proponents prior to the start of the approval process; and
- Commits DIAND to development of information guidelines for environmental assessment of quartz mines. It also commits the YTWB to develop guidelines for design standards for various aspects of quartz mining operations. These guidelines will be developed in cooperation with DIAND to avoid duplication and/or contradiction with other regulatory processes.

The protocol is still under negotiation. Upon finalization, copies will be made available from DIAND and the Yukon Territory Water Board.

The Yukon Territory Water Board ensures conservation, development and use of waters in a way that provides optimum benefit for all Canadians, and in particular for Yukon residents.

3.0 QUARTZ MINING LICENCE AND MINE RECLAMATION

Amendments to the *Yukon Quartz Mining Act* (YQMA) came into force on April 1, 1997. As a result, Section 139 of the YQMA requires that any person engaging in development or production of minerals requires a Quartz Mining Licence. This section briefly outlines the requirements of the Quartz Mining Licence.

The definitions of "Development" and "Production" under the *YQMA* are:

> "Development" means the construction of a facility or work for the production of minerals, but excludes the construction of a facility or work for the sole or principal purpose of assessing land for its suitability for the production of minerals.
>
> "Production" means taking a mineral from the land, or treating a mineral that has been taken from the land, if done for commercial purposes, but excludes an exploration program.

The Quartz Mining Licence deals with the production aspects of mining, solid waste disposal, and the reclamation of terrestrial disturbances. In the past, the water licence dealt with all aspects of the mining operation, including reclamation of the site.

For operations that already have a water licence, or require one, the Quartz Mining Licence will strive to ensure there is consistency between the two licences and that DIAND's responsibilities as Responsible Authority under *CEAA* are met.

Where applicable, previous environmental screenings can be used in the assessment of the project for a mining licence. The EA conducted under *CEAA* will be utilized in the issuance of both water and quartz mining licenses as well as any other permits required.

YQMA also includes specific authorizations for the creation of a set of regulations related to quartz mine development and production. Regulations will be developed in the near future.

In the absence of regulations, under Part II of the *YQMA*, the Minister of DIAND has the authority to issue Quartz Mining Licences with attached conditions. The document "*Yukon Quartz Mine Licensing*" has been finalized, and will serve to guide the licensing procedures until such time that regulations are promulgated. This document is available from DIAND's Mining Land Use and Reclamation Division in Room 320 of the Elijah Smith Building.

4.0 DEVOLUTION

Yukon Government anticipates assuming responsibility for the management of natural resources under mirror federal legislation in the near future. This would include responsibilities as presently defined under the *Yukon Quartz Mining Act, Yukon Placer Mining Act, Yukon Waters Act, Territorial Lands Act and the Canadian Environmental Assessment Act.*

The goal of the Yukon Government is to ensure a smooth transition of these responsibilities. To help achieve this, Yukon Government anticipates continuing to apply positive administrative improvements that are implemented by the federal government. Some changes will be necessary to apply these procedures in a Yukon context. Administrative procedures would be updated at that time to reflect the necessary changes.

5.0 DEVELOPMENT ASSESSMENT PROCESS (DAP)

In the future, the current environmental assessment process (*CEAA*) will be replaced by a made-in-the Yukon process called the Development Assessment Process (DAP).

DAP is based on Chapter 12 of the Yukon First Nation's Umbrella Final Agreement. This new process will apply only in the Yukon, on all Yukon lands.

The new process will be used by the federal, Yukon and First Nation governments. Administrative procedures to implement this legislation will change. As DAP is still being developed, specific details are unknown.

6.0 Attachments

ATTACHMENT #1:

SELECTED REFERENCES FOR PREPARING HARDROCK MINING PROPOSALS

1. **Geotechnical Considerations for Northern Mining Developments**, Geo-engineering (M.S.T.) Ltd, 1990

2. **Investigation and Design of Mine Dumps - Interim Guidelines**, Piteau Associates Engineering Ltd., 1991

3. **Operation and Monitoring of Mine Dumps - Interim Guidelines**, Klohn Leonoff Ltd., 1991

4. **Guidelines for Reclamation/Revegetation in the Yukon**, Yukon Government, Department of Renewable Resources, 1993

5. **Dam Safety Guidelines**, Canadian Dam Safety Association, 1999

6. **Closure Design Standards for Yukon Mining Projects**, Bill Slater, 1997

7. **Guidelines for Metal Leaching and Acid Rock Drainage at Minesites in British Columbia**, W.A. Price and J.C. Errington, 1998

8. **Land Use Guidelines: Access Roads and Trails; Camp and Support Facilities; Permafrost**, Komex International, 1998

9. **Environmental Assessment: Draft CEAA Environmental Assessment Procedures Compilation**, Northern Affairs Program, DIAND, 1999

10. **Case History of Environmental Assessments for Mining Projects in Yukon, Draft Report,** Gartner Lee Limited, June 1999

11. **CCME Canadian Environmental Quality Guidelines**, Canadian Council of Ministers of the Environment,1999

Note: DIAND Environment Directorate has prepared a list of references for Level II Development Projects. This list includes the above references and several others to assist with the environmental assessment and regulatory authorization of mining projects in the Yukon. For further information on these references, please contact:

Environment Directorate, DIAND
345-300 Main St.
Whitehorse, YT Y1A 2B5
(867) 667-3251

ATTACHMENT #2:

LIST OF CONTACTS FOR MINING COMPANIES

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REGIONAL ENVIRONMENTAL REVIEW COMMITTEE (RERC)

DIAND Membership, Yukon Region Core Membership

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ATTACHMENT #3:

REGIONAL ENVIRONMENTAL REVIEW COMMITTEE (RERC) TERMS OF REFERENCE

INTRODUCTION

1. Background

The Department of Indian Affairs and Northern Development (DIAND) has a mandate to manage and assist in the sustainable development of the North and its natural resources while protecting and rehabilitating the northern environment. Within this framework, the Northern Affairs Program of DIAND has legislated responsibilities to conduct environmental assessment on proposed development projects in the Yukon. Additionally, projects which are proposed outside of the Yukon that have potential to cause environmental effects within the Yukon may be subject to transboundary environmental assessment, in which DIAND may be involved. In order to facilitate the assessment process for these projects, the Regional Environmental Review Committee (RERC) has been established.

2. Purposes

The purposes of these Terms of Reference are to:

(A) provide a set of principles which guide the work of the RERC;

(B) describe the mandate, goals and roles and responsibilities, of the RERC of the Yukon and of its Chairperson and Committee Members;

(C) provide clarity for proponents, public and RERC members on the mechanisms used by the RERC to facilitate issue resolution;

(D) outline the functioning of RERC as it relates to the environmental assessment process; and

(E) describe the processes used by the RERC in providing advice for the development of recommendations by DIAND regarding the potential environmental effects of proposed projects and the potential options to mitigate these effects.

3. Guiding Principles

The following principles are integral to the effective functioning of the RERC:

(A) Communication - To promote a spirit of fairness, cooperation, goodwill and timeliness, RERC members and the proponent will commence communications as early as possible in the assessment process.

(B) Timeliness - Wherever possible and in order to increase certainty for proponents and public, RERC will conduct business in a timely and efficient manner which avoids duplication and delay.

(c) Level of Detail - While recognizing that legislated requirements and responsibilities must be satisfied, RERC will consider economic, technical, environmental and other limitations when determining the quality and quantity of information required for project assessment.

(d) Collaboration - RERC members, the Project Manager, and the Chairperson will make best efforts to deliver a user-friendly process which is clearly and mutually understood by the RERC, proponent and the public.

(e) Accountability - RERC members are accountable to their respective agencies or governments but will strive to provide specialist and/or expert advice to the RA's.

(f) Openness & Transparency - The chair will strive to facilitate an open and transparent examination of environmental effects and their resolution so that all stakeholders understand the project.

(g) Focus - Collection, interpretation and analysis of information by the RERC shall be for the purposes of advancing the assessment of a particular project.

II PURPOSE AND GOALS OF THE COMMITTEE

4. Purpose of the Committee

The Regional Environmental Review Committee (RERC) is a multi-disciplinary inter/intra-governmental advisory committee. The purpose of the RERC is to provide specialist or expert information or knowledge to DIAND, Yukon Region to assist with the screening and comprehensive study of "Level II" development projects[1], as mandated by the Environmental

[1] Level I projects are the most common type of environmental assessments; they generally have minor or low potential for significant adverse environmental effect. Generally all DIAND funding and authorizations, except type A water licences and some land leases, are Level 1 screenings. Level I and Level II are DIAND administrative terms and are not found in the *Canadian Environmental Assessment Act*.

Assessment and Review Process (EARP) Guidelines Order (prior to January 19, 1995) and as mandated by the *Canadian Environmental Assessment Act* (CEAA), (after January 19, 1995). All new projects submitted after January 19, 1995 must be assessed under *CEAA*. When DIAND and one or more other departments are Responsible Authorities under *CEAA*, all RA's can draw upon the RERC to provide specialist and expert information if they so chose. In the event that there is conflict between these Terms of Reference and the provisions of *CEAA*, the Act will govern.

5. Goals of RERC

The goals of RERC are:

(a) To provide information and advice to DIAND and other federal Responsible Authorities (RA), if they so choose, in order to facilitate the RA's decision-making role in assessing the acceptability of the development and design of projects;

(b) To assist DIAND and other federal RA's, if they so chose, in determining whether project proposals meet the screening/comprehensive study requirements identified in *CEAA*;

(c) To make recommendations regarding the likelihood and significance of environmental effects, including cumulative effects, malfunctions and accidents in connection with a proposed project and to evaluate mitigation measures;

(d) To make recommendations regarding the need for referral to the Minister of the Environment where Panel Review or Mediation is considered, based on potential significant adverse impacts and public concerns;

(e) To identify issues and concerns for referral to appropriate regulatory agencies for those projects not referred to the Minister of Environment;

(f) To facilitate coordination of federal RA's and staff with specialist or expert information or knowledge as required by *CEAA* and the "Regulations Respecting the Coordination by the Federal Authorities of the Environmental Assessment Procedures and Requirements"; if and when all RA's agree;

(g) To provide an opportunity for the exchange of information on the applied science, technical, legal and, on select occasions, policy aspects and implications of EA;

(h) To provide advice to DIAND on information that should be submitted by proponents on environmental effects, mitigation, significance or likelihood; and

(i) To provide any data or information to the proponent which will assist them in the determination of environmental effects, mitigation or significance.

6. Accountability

The Chairperson of RERC is accountable to the Regional Director General/Associate Regional Director General for the conduct of a fair, efficient and transparent environmental assessment process.

III ROLES AND RESPONSIBILITIES

7. Chairperson

The Chairperson manages the affairs of RERC and has the following responsibilities:

(a) oversees and directs the activities of RERC;

(b) serves as the primary DIAND contact for RERC for environmental assessment issues non-specific to projects;

(c) ensures that RERC activities are in compliance with *CEAA* and the RERC Terms of Reference;

(d) approves agendas and requests for additional agenda items;

(e) determines whether a meeting requested by an RERC member or the proponent should be called;

(f) calls meetings and determines their location;

(g) presides over the meetings of the RERC, or when absent, designates a replacement;

(h) structures meetings to ensure that all decisions and future actions are mutually understood, agreed upon and recorded;

(i) consults with Project Managers and RERC members on the establishment of reasonable time periods for members to review submissions and provide input to DIAND;

(j) communicates with proponents, in collaboration with the Project Manager, on proponent and RERC roles and responsibilities with respect to project-specific assessment processes, time lines, and issue-resolution mechanisms and options;

(k) establishes sub-committees as necessary where specific issues warrant detailed consideration;

(l) within RERC, facilitates resolution of outstanding issues or refers to a facilitation/arbitration process for resolution and preparation of requirements;

(m) provides opportunities at public meetings for comment and input from the floor by both individuals and delegates;

(n) directs the preparation of requirements and reports regarding the proposed project under assessment;

(o) directs the drafting of the screening report or comprehensive study report as deemed necessary by the assessment; and

(p) ensures that the Guiding Principles are adhered to.

8. Project Manager

A Project Manager will be assigned by DIAND for each specific project under assessment. The Project Manager will have relevant project management, technical and other professional expertise and will have the following responsibilities:

(a) acts as the primary contact/liaison for proponents who are intending to submit a project for assessment, regarding the requirements of the environmental assessment process;

(b) communicates with proponents and RERC members, in consultation with the Chair, on proponent and RERC roles and responsibilities with respect to project-specific assessment processes, time lines, and issue-resolution mechanisms and options;

(c) serves as the primary DIAND contact for RERC on project-specific issues;

(d) ensures all relevant agencies and experts are consulted with respect to a project;

(e) facilitates and coordinates the evaluation of the Project Description and Environmental Assessment Reports (EAR) by RERC Members;

(f) determines whether EAR Guidelines are required;

(g) prepares, where necessary and with assistance of RERC members, project-specific EAR information guidelines and other guidelines or information requests as may be required;

(h) coordinates and conducts a preliminary review of EAR submissions for completeness by comparing the EAR to the EAR information guidelines;

(i) clarifies to RERC members and the proponent the relationship of specific issues being examined by the RERC to requirements of the environmental assessment process;

(j) establishes and maintains an issues-tracking mechanism to follow issues and resolutions, including a chronology of deadlines, submissions, meetings and deadline extensions;

(k) establishes, in consultation with the Chairperson and RERC members, reasonable time periods for members to review submissions and to provide input/recommendations to DIAND;

(l) where feasible, provides RERC members and project proponents with a time line of major milestones for assessment of a project and development of requirements;

(m) coordinates, collects and summarizes comments from RERC members and provides consolidated responses for proponents;

(n) directs secretariat on distribution of information to RERC members and proponent;

(o) prepares rationales and justifications where information is being requested of the proponent under the Minister's discretion;

(p) prepares discussion/options papers as mechanisms to assist issue resolution, and, where necessary, refers any outstanding issues to the Director of Environment for facilitation/ arbitration and final decision-making;

(q) where issues have been identified by RERC, works with the secretariate to ensure issue-tracking is conducted, brings forward outstanding issues to the following RERC meeting, and provides feedback to RERC on decisions regarding identified issues;

(r) prepares responses from the Responsible Authority to proponent's submissions, upon consideration of RERC comments, public input, and any information or comments received. The response shall conform with the requirements of *CEAA*; and

(s) drafts screening reports or comprehensive study reports as deemed necessary by the requirements of *CEAA*.

The responsibilities of the DIAND Project Manager do not restrict other Responsible Authorities from also designating Project Manager(s). Where multiple RA's exist for a project, some of the above responsibilities may be shared among RA's.

9. RERC Members

Based on their specialist or expert information or knowledge and in accordance with their mandate, RERC members:

(a) attend meetings of RERC in the capacity of a representative of a group, agency, or department;

(b) review meeting Minutes, including Records of Decisions and Action Items, to ensure accuracy and completion;

(c) within the time lines established by the *CEAA* Federal Coordination Regulations, indicate whether or not they represent an RA pursuant to *CEAA* for the project under assessment, and if so, meet with the Chair and Project Manager to determine the manner in which the RA's will perform their functions in a coordinated fashion;

(d) provide advice on whether information submitted by the proponent is consistent with the information requirements provided to the proponent;

(e) assess project proposals, including mitigation, to evaluate the potential for adverse environmental effects and to provide advice on the likelihood and significance of these effects;

(f) where an EAR is required, and detailed generic information guidelines do not exist or do not meet requirements for a specific project assessment, assist in the preparation of information guidelines by indicating key issues to be addressed in the EAR and the type and level of information which is required for the RERC member to adequately assess potential environmental impacts in accordance with their mandate. Guidelines are drafted in as much detail as possible and include suggested methodology where appropriate;

(g) when requested, provide advice on response letters, draft screening reports and comprehensive study reports drafted by DIAND (in coordination with other Responsible Authorities where appropriate) to ensure they accurately address issues raised by the RERC member; and

(h) where time lines for submissions cannot be met, identify to Chairperson as early as possible when comments will be submitted, with reasons.

RERC members may request meetings and additional agenda items for proposed agendas.

10. Secretariat

All secretariat services are provided for RERC meetings by the Environment Directorate, DIAND. Responsibilities of the secretariate are:

(a) give notice of all meetings of the RERC;

(b) develop agendas and distribute to RERC members;

(c) produce minutes of all meetings, which include Records of Decision and Action Items with due dates;

(d) distribute minutes of meetings to RERC members for review and approval;

(e) track all Action Items, identify outstanding items to the Project Manager or Chair, and bring forward outstanding action items to the following RERC meeting;

(f) under the direction of the chair ensure information on open meetings is publicly available;

(g) under the direction of the Chair, ensure minutes of meetings are publicly available and appended to the Public Registry once approved by RERC;

(h) under the direction of the Chair, registers the interest of individuals and delegations to address the RERC and schedules these on the agenda;

(i) circulate all reports and other relevant information to RERC Members as directed by the Project Manager; and

(j) address all logistical matters/arrangements to support RERC business.

IV RERC AND THE ASSESSMENT PROCESS

11. Projects Assessed by RERC

Projects which DIAND has accepted as requiring a Level II assessment are referred to the RERC through the Chairperson of the RERC. Level II projects are projects for which there are unknown impacts and/or where potentially significant adverse environmental impacts or public concerns warrant detailed assessment. Some examples of Level II projects include hard rock mining proposals that require a Type A water licence, coal mining proposals, major hydro development projects, major construction, linear projects such as roads and pipelines, and projects requiring Comprehensive Studies pursuant to the *CEAA* Comprehensive Study List Regulations.

A project may enter into a Level II environmental assessment: in response to a request for a referral from another Directorate in DIAND; in response to a referral by the Water Board; in response to a request by a proponent ; or in response to a request by another RA for a coordinated assessment utilizing the RERC.

Once complete submissions have been received, DIAND, with the assistance of RERC, commits to a timely assessment process and open and collaborative communication with the proponent, stakeholders and public. Proponents will be invited to participate in RERC deliberations.

12. Entry into the RERC Process

Entry into the RERC can be triggered by a proponent's application for an authorization (eg. land use permit or a water licence, usually a Type A water licence) as outlined in section 5 of the *CEAA*. More commonly a proponent will request a meeting with the RERC early in the project development and may submit a Project Description even though no applications have been made for licenses or permits. On occasion the Chairperson of the RERC will invite a proponent to meet with RERC after hearing of a public announcement of the potential project (i.e. news release). The project assessment does not start until the Project Description is accepted by the Chair.

13. Preliminary Evaluation of Submitted EAR and Possible Addendum

Upon submission of the EAR by the proponent, the Project Manager conducts a preliminary evaluation of information for completeness by comparing the EAR to the EAR information guidelines. If the EAR is lacking information it may be returned to the proponent to incorporate information as originally requested. If the information appears to be sufficient to enable an assessment, the Project Manager will distribute information to the RERC members for a detailed review, and may subsequently return the EAR to the proponent if information is deemed inadequate. A similar evaluation of addendum information submitted by the proponent may also be conducted by the Project Manager. This preliminary evaluation does not replace the detailed technical assessment by the RERC.

14.Working with Proponent

RERC members work within their specific mandates to assess the likelihood and significance of adverse effects of a proponent's proposal. Through clear and concise questions, comments and recommendations, the RERC seeks to ensure that the proponent has good understanding of the project-specific issues and how they can be resolved. Where it has been identified that an EAR is required, the RERC will work cooperatively with the proponent to ensure a clear understanding of the requirements of the EAR information guidelines prior to commencing preparation of the EAR or addendums.

15. Mechanisms for Issue Resolution

During the review of a Project Description or EAR, issues may be identified which do not have readily identifiable solutions. In such circumstances, a Project Manager may seek out various issue-resolution mechanisms, including, but not limited to:

a) preparation of options papers for review and discussion at RERC meetings;

b) RERC review of draft response letters to the proponent;

c) clarification to proponent and RERC members of relationship of a particular issue to the environmental assessment process;[2]

d) coordination of discussion and background research to be conducted by a particular sub-group of the RERC;

e) pursuance of third-party advice where similar issues and past experiences may assist the assessment; and

f) referral of specific issues to the Director, Environment for facilitation/arbitration and decision-making.

The above issue-resolution options a), d), and f) may also be used to resolve procedural issues of RERC.

16. Receiving RERC Comments

If no comments are received from members within the time period requested by the Chair (and agreed to by RERC members), and no alternative arrangements have been made, then the Chairperson may assume that the member has no concerns with the issue under consideration. However, members are requested to submit written statements clarifying their position. Best efforts will be made to accommodate members requests for extensions while remaining sensitive to proponent time lines and previous commitments.

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[2] If the Project Manager determines that a technical issue has no relationship to EA, or that it is an issue to be addressed by the permitting agency(ies), then the Project Manager shall advise the agency that commented. In some cases, the Project Manager, in consultation with the Director of Environment, may also identify the issue as one that will be identified as a screening recommendation to be addressed by the relevant permitting agency. The Project Manager shall be responsible for tracking the issue/screening recommendation and confirming that it was addressed.

17. Coordinated Screenings

Where other federal departments are also responsible authorities and make determinations under the *CEAA*, the federal government shall make best efforts to coordinate the assessment of all projects for which there may be multiple federal triggers, under one assessment. Where the Yukon Government or a First Nation may also be a regulatory decision-maker with respect to a project, DIAND will ensure that a coordinated assessment of the project occurs. RERC will be used to provide technical, specialist or expert advice in these coordinated assessments. Each government will make decisions independently, in accordance with their mandates and responsibilities.

18. Public Participation

Proponents are encouraged to meet with affected communities, First Nations and other interest groups, to inform them of their proposed project and to fully consider all concerns or impacts identified. A project-specific list of interested parties is developed at the start of the assessment of each project. This may include interested groups (i.e. Yukon Conservation Society, Yukon Chamber of Mines, Yukon Chamber of Commerce, Canadian Parks and Wilderness Society), individuals, and municipal and territorial governments. These parties are invited to provide input to DIAND throughout the assessment process and are welcome to attend RERC meetings as observers. The Chairperson may also initiate community or public consultation to assist DIAND in its assessment, and may, if required, hold RERC meetings and/or public meetings in the affected community.

The public is invited to provide input to DIAND throughout the process. For example, Project submissions and EAR's are distributed to municipalities, First Nations, interest groups and those requesting information regarding project development. In addition, Screening and Comprehensive Study Reports are placed in public libraries and DIAND district offices for public review. RERC meeting minutes and submissions provided to DIAND by the RERC are part of the public record, and may be used and distributed by the Project Manager.

19.Closed Sessions

While RERC meetings are open for proponent and public participation, there may occasionally be the need for Core members of RERC to hold closed sessions. This decision to hold a closed session will be determined by the Chairperson, in consultation with the Project Manager.

20. Policy Matters

Periodically policy issues associated with project assessments or legal judgements may arise. Subsequent to any discussion in RERC, the chair will refer those issues to departments with relevant responsibility for resolution.

V MEMBERSHIP

21. Core Membership

The core membership of the RERC will consist of one member from each of the following agencies, plus the Chairperson, the Director, Environment Directorate, DIAND:

Environment Directorate, DIAND (Project Manager);
Water Resources, DIAND;
Land Resources, DIAND;
Executive Services, DIAND;
Department of Economic Development, YTG;
Department of Renewable Resources, YTG;
Municipal and Community Affairs, YTG
Workers Compensation Board, YTG;
Council for Yukon First Nations;
First Nation whose Traditional Territory is affected by the project.
Mineral Resources, DIAND;
Indian and Inuit Affairs, DIAND;
Forest Resources, DIAND;
Department of the Environment;
Department of Fisheries and Oceans;
Environmental Health Services, YTG;
Heritage Branch, Dept. of Tourism, YTG;
Community and Transportation Services, YTG;

In addition, specialists are invited to participate as members where they have a direct interest in the project or responsibility pertaining to the project (eg. Canadian Coast Guard for navigable waters issues).

Requests for membership and changes to members must be made to the Chairperson.
A copy of the current RERC membership is available from the Environment Directorate, DIAND.

22. RERC Technical Sub-Committees

To professionally and efficiently evaluate the projects submitted for assessment, wide-ranging expertise and knowledge is required. Therefore, on occasion there is a need to form technical or socio-economic subgroups to review/study specific project components such as engineering design of leach pad liners, geotechnical or hydrological information, and heritage concerns. Members of technical sub-committees are individuals with specialist knowledge in a specific area in addition to the First Nation representative, should they wish to participate. External expertise may be hired at a very early stage in the assessment at the discretion of the RA, particularly where government is lacking in expertise, and consultants may be asked to participate in the sub-committees. The nature of the project will determine the necessity and

focus of sub-committees. The establishment of sub-committees is at the discretion of the Chairperson, in consultation with the Project Manager, the proponent and the RERC members.

VI IMPLEMENTATION

23. Effective Date

These Terms of Reference replace the existing Terms of Reference of August 1997 for the Regional Environmental Review Committee and will become effective upon signing by the Director, Environment and the Regional Director General, DIAND, Yukon Region.

24. Changes to the Terms of Reference

Any proposed changes to these Terms of Reference are subject to the approval of the Director, Environment and the Regional Director General, DIAND, Yukon Region.

The RERC may be terminated at the discretion of the Regional Director General, DIAND, Yukon Region.

These Terms of Reference shall be subject to review two years from the date of signing by, and/or at the discretion of, the Director of Environment, Yukon Region.

VII REFERENCE MATERIAL

Additional information on the EA process is available from the Environment Directorate, DIAND. Any questions regarding the RERC Terms of Reference should be directed to:

Environment Directorate, DIAND,
345-300 Main St.
Whitehorse, YT Y1A 2B5
tel: 667-3251

Ian Church, Chair RERC	Terry Sewell,
Director Environment Directorate	Regional Director General
Department of Indian & Northern Affairs	Department of Indian & Northern Affairs

ATTACHMENT #4:

FRAMEWORK FOR GUIDELINES FOR PROJECT INFORMATION REQUIREMENTS

Goals

- To provide concise guidelines for environmental assessment (EA) information requirements for major mining projects;
- To improve the EA process and provide greater certainty by ensuring that proponents have advanced knowledge and an understanding of the information requirements for EA;
- To provide information guidelines that convey the requirements of the *Canadian Environmental Assessment Act* and provide guidance on preparing EA reports;
- To improve quality of documentation submitted for EA by providing guidelines that recognize other regulatory requirements and specifications;
- To develop guidelines for preparing Project Description reports for major mining projects;
- To develop guidelines for preparing Environmental Assessment Reports (EAR) for major mining projects;
- To facilitate the preparation of screening reports by providing the necessary documentation for the project.

Background

The Department of Indian Affairs and Northern Development (DIAND) is responsible for the EA of hard rock mining projects in the Yukon. Generic guidelines for Project Descriptions and Environmental Assessment Reports EAR have served in the past as mechanisms to ensure that the requirements of the federal EA process are being met. These guidelines are being updated to conform to the legislative requirements of the *Canadian Environmental Assessment Act* (*CEAA*) and ensure that project proponents understand the information requirements necessary to enable a thorough EA review.

Information guidelines need to be developed in order to assist proponents with the preparation of information required to complete the EA process. The guidelines will serve as a generic foundation for information requirements for all hard rock mining projects. The goal of the guidelines is to streamline the EA process by providing guidance to proponents early in the assessment process. The success of guidelines will be reflected in their ability to eliminate unnecessary delays and duplicate iterations of information requests by the Responsible Authority (RA) for a project (principally DIAND for hard rock mining projects, although other federal agencies may also be RA's).

Generic Project Description and EAR Guidelines would serve as a mechanism to ensure that the requirements of the federal EA process for new projects are being met under the *Canadian Environmental Assessment Act* (*CEAA*). Once a project has been accepted for EA, detailed

project-specific EAR Guidelines would be developed by DIAND with the assistance of the Regional Environmental Review Committee (RERC) and the proponent.

Content of Project Environmental Assessment Guidelines

Two separate guidelines would continue to serve as a basis for developing information requirements for major mining projects. The concept is to have the project move through two phases of the EA process by providing increasing levels of project information or detail and studies to the RA for review. The information guidelines would define the basic level of project detail required for each phase of assessment, with the assessment process assisting to refine and focus the project information requirements for the next phase of assessment. It is anticipated that the level of information detail would be dictated by the project type, the potential environmental impacts and the information needed to determine both the likelihood and significance of those impacts.

The two Project Environmental Assessment Process phases would include:

- Phase I - Project Description; and
- Phase II - Project Environmental Assessment Report (EAR).

Generic information guidelines would be developed for each assessment phase. The approach to the guideline development would be to provide the following:

- Basic information of the EA process and legislated requirements for EA under *CEAA*;
- An outline of specific information requirements, such as project alternatives, baseline environmental studies, impact identification, predictions and mitigation, significance determination, environmental management plans and cumulative effects, will be addressed including why the information is needed and how the information will be utilized during the assessment;
- A reference list for resource material demonstrating specific information requirements available to assist with completion of EA studies and reports;
- A list of agency contacts for specific information requirements;
- A list of definitions and terms used in the EA process;
- Identification of any available project design specifications and requirements that may be required for the EA process or for permitting; and
- A structured format and table of contents for project documentation preparation and presentation.
-

It is expected that the basic outline or report table of contents would be similar for both the Project Description and EAR guidelines. The guidelines would suggest a table of contents format for submission of Project Description and Project EAR reports. This table of contents would essentially remain the same for each assessment phase and form the basic "building blocks" for the project proponents report submissions. Details of the project, surrounding

environmental conditions, impact identification and assessment, mitigation and environmental management plans would become more specific and detailed as the project moves to the next assessment stage.

The generic information guidelines would be developed and made available for both the Project Description and EAR stages of the EA process. Depending on the project being proposed and the information presented in the Project Description, detailed project specific EAR information requirements may be developed with the RA, RERC, and the Project Proponent. Detailed project specific EAR guidelines would be developed after the Project Proponent files a Phase I - Project Description and makes a formal request to the RA to initiate the assessment process.

The Yukon Territory Water Board (YTWB) is drafting performance standards and design criteria that will assist the project proponent to establish project specific design criteria and parameters. Where possible, these performance standards and criteria would be referenced in the Project Description and Project EAR guidelines.

An overview of the Project Description and EAR phases and guideline content is outlined below:

Phase I - Project Description Guidelines

Project Description is defined in the "Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements" as:

> Any information in relation to a project that includes:
> (a) a summary description of the project;
> (b) information indicating the location of the project and the areas potentially affected by the project;
> (c) a summary description of the physical and biological environments within the areas potentially affected by the project; and
> (d) the mailing address and phone number of a contact person who can provide additional information about the project.

As a minimum, the requirements for preparation of project descriptions should conform to this definition of Project Description. As the project description is intended to provide preliminary information about the proposal for planning purposes, the project detail provided at this stage of the assessment should be general in nature, including project alternatives under consideration. The existing knowledge of biophysical and socio-economic conditions and cultural resources in the project should be presented along with potential or apparent data gaps. A preliminary indication of valued ecosystem and cultural components should be provided along with study plans designed to address potential data gaps and impact predictions. Known or potential environmental impacts associated with the project should be identified and conceptual plans for mitigation presented. Expected environmental management systems or waste management plans needed for the project should be identified. The level of engineering detail for the project

description should provide the expected locations and general arrangement of proposed facilities and infrastructure. Typically this level of engineering design is called general arrangement plans or conceptual designs.

The information provided in the Phase I – Project Description should support negotiations towards a Project Agreement between the RA and the Project Proponent.

Phase II – Project Environmental Assessment Report (EAR) Guidelines

The EAR acts as the key document for the EA process. The proponent uses this document to present the detailed information about the project, surrounding environmental and socio-economic and cultural conditions, the likelihood of potential impacts and planned mitigation measures. The Responsible Authority requesting and assessing the information uses the information to assess the environmental effects of the project and determine the likelihood and significance of the effects. This information supports the RA's final legislated determination for the project.

The EAR guidelines should expand upon the Project Description guidelines "building block" format (Table of Contents) that can be modified/expanded to suit project-specific information needs. Detailed project-specific EAR information guidelines would be developed by the RA with the assistance of the RERC and proponent, once the Project Proponent has submitted the Project Description information.

The project detail provided at this stage of the assessment should build and expand on the information provided in the Project Description with sufficient project detail, environmental baseline studies, impact assessment and mitigation plans to support a detailed project environmental assessment as required under *CEAA*. Examples of information required would include: preliminary project design criteria and parameters; hydrological/water balance analysis; detailed environmental baseline study results; impact predictions; or other supporting studies contrary to design standards. The information must be of sufficient detail to enable the RA to evaluate the environmental conditions, expected environmental effects and their likelihood, the significance of potential impacts and the effectiveness of planned mitigation measures.

The level of engineering design required for the project EAR should be Basic Engineering plans or Preliminary Designs. However, the detail should be sufficient to complete an assessment of the project.

General

To assist the proponent with preparing EA documentation, legislated requirements for environmental assessment under *CEAA*, relevant guidance provided by the "Responsible

Authorities Guide to the *CEAA*", the "Northern Affairs Program Environmental Assessment Procedures Manual" and other resource material will be referenced throughout the guidelines.

As some projects may trigger multiple RA's (ie. Department of Fisheries and Oceans and DIAND), the content of these guidelines must adhere to the "Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements". Additionally, departments who are regularly involved as RA's should be consulted to determine any additional information requirements with respect to EAR's and Project Descriptions. This should occur during the development of project specific Phase II – Project EAR information guidelines.

To assist the proponent with project design, where performance standards and design criteria exist, they will be referenced in the Phase II – Project EAR information guidelines.

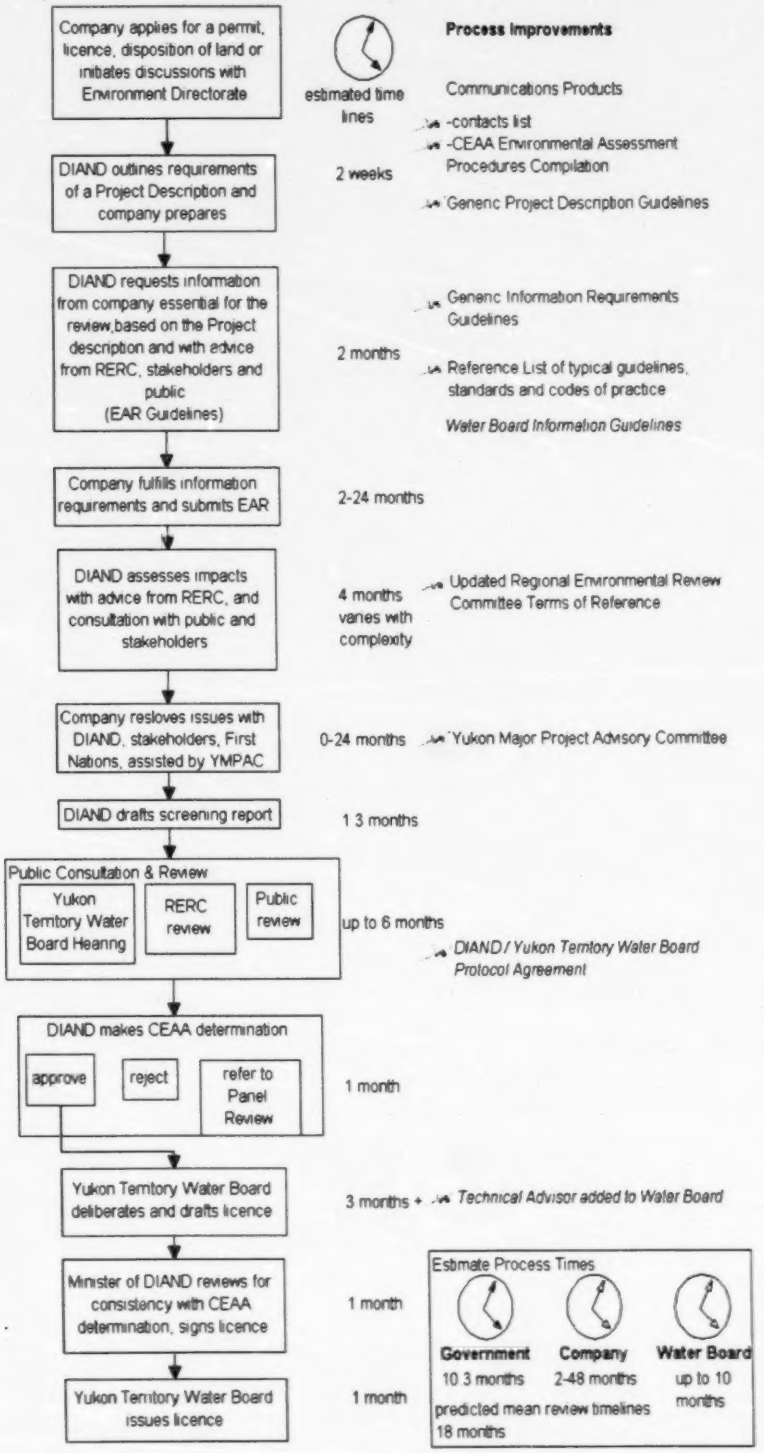
ATTACHMENT #5:

TIME LINES

These Time Lines pertain to the water licensing of Type A quartz licensing projects. Other permits may impact time lines.

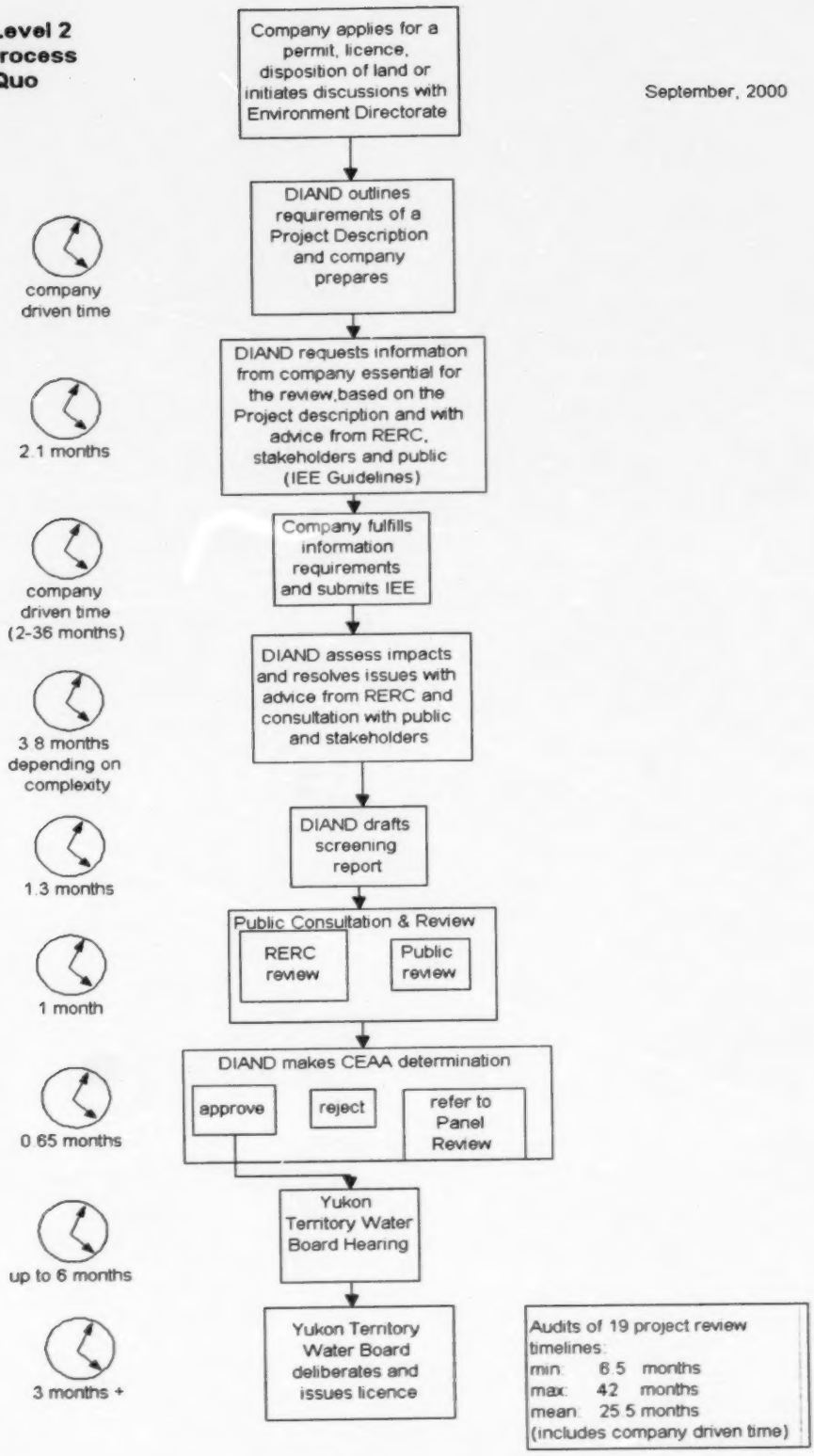
DIAND Level 2 CEAA Process
Blue Book and *Water Board Protocol* Process Improvements

September, 2000

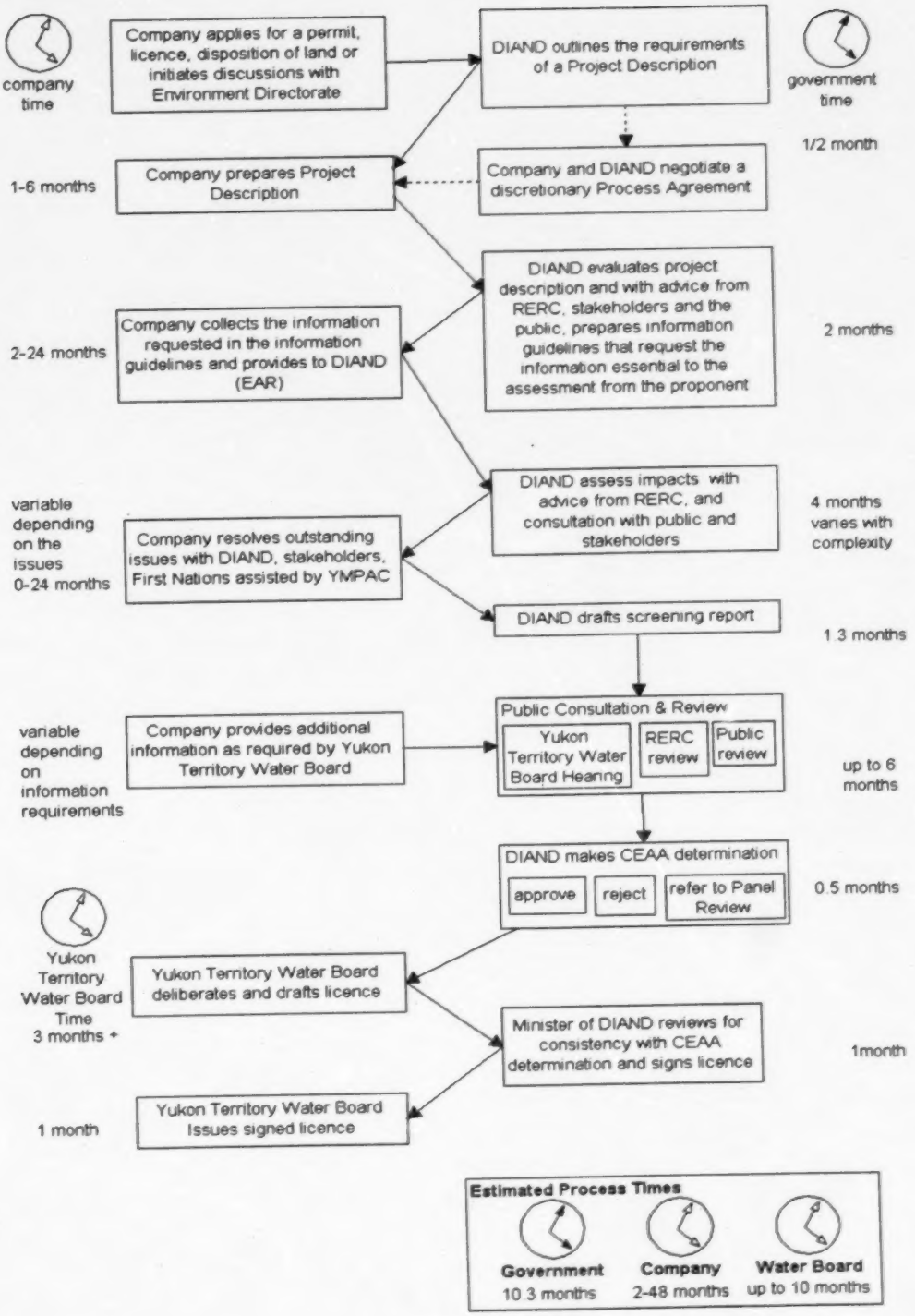

Company applies for a permit, licence, disposition of land or initiates discussions with Environment Directorate
DIAND outlines requirements of a Project Description and company prepares
DIAND requests information from company essential for the review,based on the Project description and with advice from RERC, stakeholders and public (EAR Guidelines)
Company fulfills information requirements and submits EAR
DIAND assesses impacts with advice from RERC, and consultation with public and stakeholders
Company resloves issues with DIAND, stakeholders, First Nations, assisted by YMPAC
DIAND drafts screening report
Public Consultation & Review
Yukon Territory Water Board Hearing
RERC review
Public review
DIAND makes CEAA determination
approve
reject
refer to Panel Review
Yukon Territory Water Board deliberates and drafts licence
Minister of DIAND reviews for consistency with CEAA determination, signs licence
Yukon Territory Water Board issues licence
estimated time lines
2 weeks
2 months
2-24 months
4 months varies with complexity
0-24 months
1 3 months
up to 6 months
1 month
3 months +
1 month
1 month
Process Improvements
Communications Products
-contacts list
-CEAA Environmental Assessment Procedures Compilation
Generic Project Description Guidelines
Generic Information Requirements Guidelines
Reference List of typical guidelines, standards and codes of practice
Water Board Information Guidelines
Updated Regional Environmental Review Committee Terms of Reference
Yukon Major Project Advisory Committee
DIAND / Yukon Territory Water Board Protocol Agreement
Technical Advisor added to Water Board
Estimate Process Times
Government
10 3 months
Company
2-48 months
Water Board
up to 10 months
predicted mean review timelines
18 months

DIAND Level 2
CEAA Process
Status Quo

September, 2000


Company applies for a permit, licence, disposition of land or initiates discussions with Environment Directorate
DIAND outlines requirements of a Project Description and company prepares
company driven time
DIAND requests information from company essential for the review,based on the Project description and with advice from RERC, stakeholders and public (IEE Guidelines)
2.1 months
Company fulfills information requirements and submits IEE
company driven time (2-36 months)
DIAND assess impacts and resolves issues with advice from RERC and consultation with public and stakeholders
3.8 months depending on complexity
DIAND drafts screening report
1.3 months
Public Consultation & Review
RERC review
Public review
1 month
DIAND makes CEAA determination
approve
reject
refer to Panel Review
0.65 months
Yukon Territory Water Board Hearing
up to 6 months
Yukon Territory Water Board deliberates and issues licence
3 months +
Audits of 19 project review timelines:
min: 6.5 months
max: 42 months
mean: 25.5 months
(includes company driven time)

DIAND Level 2
CEAA Process
Blue Book version


company time
Company applies for a permit, licence, disposition of land or initiates discussions with Environment Directorate
DIAND outlines the requirements of a Project Description
government time
1/2 month
1-6 months
Company prepares Project Description
Company and DIAND negotiate a discretionary Process Agreement
DIAND evaluates project description and with advice from RERC, stakeholders and the public, prepares information guidelines that request the information essential to the assessment from the proponent
2 months
2-24 months
Company collects the information requested in the information guidelines and provides to DIAND (EAR)
DIAND assess impacts with advice from RERC, and consultation with public and stakeholders
4 months varies with complexity
variable depending on the issues 0-24 months
Company resolves outstanding issues with DIAND, stakeholders, First Nations assisted by YMPAC
DIAND drafts screening report
1 3 months
variable depending on information requirements
Company provides additional information as required by Yukon Territory Water Board
Public Consultation & Review
Yukon Territory Water Board Hearing
RERC review
Public review
up to 6 months
DIAND makes CEAA determination
approve
reject
refer to Panel Review
0.5 months
Yukon Territory Water Board Time 3 months +
Yukon Territory Water Board deliberates and drafts licence
Minister of DIAND reviews for consistency with CEAA determination and signs licence
1month
1 month
Yukon Territory Water Board Issues signed licence
Estimated Process Times
Government 10 3 months
Company 2-48 months
Water Board up to 10 months

ATTACHMENT #6:

PROJECT AGREEMENT FRAMEWORK

1.0 Scope/Purpose

The *Canadian Environmental Assessment Act* (*CEAA*) imposes requirements on the federal government which the Responsible Authority(ies) (RA) must fulfill prior to the issuance of any authorizations that would permit the project to proceed. Included is the need to coordinate activities between federal departments that are RA's under the *CEAA*.

The Umbrella Final Agreement (UFA), among Governments of Canada, the Yukon Territory and Yukon First Nations, places requirements on the Government of Canada regarding the conduct of environmental assessment (EA) prior to the enactment of legislation pertaining to the Development Assessment Process (DAP), outlined in Chapter 12 of the UFA. Specifically, interim measures have been agreed to that increase First Nation participation in EA of large projects, such as mine developments, to reflect their increased participation and decision making roles under the DAP. Additionally, international and transboundary agreements may result in shared decision-making on EA between governments.

The purpose of the Project Agreement is to provide an administrative mechanism between the RA (principally DIAND) and the Project Proponent (proponent) for the EA of major projects. The agreement is intended to provide for the transparency in the conduct of the EA process and provide a framework to enhance the discipline in preparing and reviewing the information required for the assessment. This draft Project Agreement Framework describes how DIAND as an RA, and the proponent would cooperate to have a streamlined, efficient and effective EA process. Other RAs are invited to participate in a Project Agreement.

While it is generally felt that a formal agreement will assist the environmental assessment, participation in a Project Agreement will not in any way alter the constitutional and legislated responsibilities of any party in relation to the assessment or regulation of a project. If consensus on an agreement or agreement component cannot be reached, DIAND as RA will still meet it's mandated *CEAA* responsibilities.

DIAND agrees to utilize the Project Agreement Framework on a trial basis and re-assess its use to determine effectiveness and necessity.

An outline of each Project Agreement topic is presented to set the topic context, along with suggested items for the Agreement.

It is anticipated that DIAND and the proponent would enter into a Project Agreement after the proponent has submitted a complete Project Description.

2.0 Guiding Principles

The Project Agreement shall in a general manner establish guiding principles for the conduct of the environmental assessment.

- Shared Process - The EA process will be administered so as to be easily understood by all participants, including the proponent.
- Respect - The EA process will be conducted in a manner that demonstrates respect for all participants, including the proponent.
- Commitment - The EA process will demonstrate commitment to involvement by all review participants, including the proponent.
- Timeliness - The EA process will demonstrate that time is a valuable and limited resource and that the process will facilitate timeliness in a responsive fashion.
- Communication - The EA process will be based upon effective communication which fosters an understanding of all views by all participants.
- Responsiveness - The EA process will demonstrate responsiveness to all parties.
- Accountability - The EA process will demonstrate accountability.

The Project agreement may specifically address the above guiding principles to facilitate the environmental assessment for both DIAND and the proponent.

3.0 Responsibilities

The agreement would set out the roles and responsibilities of the principal RA, DIAND and the proponent as required to facilitate the environmental assessment. Depending on the project, other federal government agencies may also be RA's. The agreement may address their roles and responsibilities, should they agree to be signatories.

DIAND Responsibilities

The Director of Environment who reports to the Regional Director General - DIAND Yukon Region, heads the Environmental Directorate of DIAND. The Director of Environment is responsible for overall administration of the environmental assessment process. The Director of Environment is responsible for assigning a Project Manager, coordinating the environment assessment with the proponent, and establishing and chairing the RERC.

The specific roles and responsibilities of the RERC Chairperson and the Project Manager are detailed in the RERC terms of reference.

Proponent Responsibilities

The proponent is the corporation or project developer seeking an environmental assessment and associated regulatory permits necessary to support development of a major project. The responsibilities of the proponent include:

- Assigning a Project Manager who will interface directly with the DIAND Project Manager;
- Requesting formal assessment of the Project by DIAND;
- Directing the coordination and submission of Project reports and documentation according to project specific EAR Guidelines ;
- Providing input to the establishment of RERC Technical Sub-Committees, project review time lines, and project documentation tracking;
- Providing comments regarding the selection of DIAND review consultants
- Providing necessary presentations and documentation to DIAND and RERC to enable timely and efficient evaluation and in particular prepare information according to requirements so that the DIAND can assess the proposal and make a determination;
- Participating in the environmental assessment process as directed by DIAND; and,
- Ensuring adequate resources and funding are in place to complete the review.

Consultation

The environmental assessment process ensures an opportunity for public participation. Consultation with various stakeholders and the public is an important component of the assessment process.

- DIAND is responsible for ensuring that the public is adequately consulted and that public comments are considered as part of the assessment process.
- DIAND and proponent have a shared role in ensuring there is adequate stakeholder and public consultation.
- The proponent is responsible for preparing and implementing a public consultation program.

4.0 Project Environmental Assessment Report Guidelines

Generic guidelines are available to the proponent for the development of Project Environmental Assessment Report (EAR) Guidelines. Project specific EAR guidelines and specifications are required to facilitate a common understanding of assessment documentation. Development of Project EAR Guidelines for the environmental assessment are key to the assessment process. The Yukon Territory Water Board (YTWB) is developing design standards and criteria for major projects for their regulatory responsibility:

- Once a project has been triggered, project specific EAR Guidelines will be developed by the RA in conjunction with the RERC and the proponent.
- Draft Project EAR Guidelines will be circulated to the RERC and public for consultation.
- Where necessary the project EAR Guidelines should reference and use design standards and criteria developed by the YTWB (and any other standards) to assist the proponent in the development of project facilities.

- The EAR Guidelines may require that alternative means for project design are examined (required for Comprehensive Studies under *CEAA*).
- DIAND will develop the project-specific EAR Guidelines in a timely manner (see item 9.0) to assist the proponent with development of project documentation and studies.
- The proponent and the DIAND will jointly agree with the project specific EAR guidelines prior to the proponent submitting project documentation. Project assessment will not proceed until agreement on the EAR guidelines is achieved.

5.0 Technical Sub-Committees

Technical Sub-Committees may be convened by the Chair of the RERC, in most cases in collaboration with the proponent, to assist in the assessment of project technical or socio-economic information. The Technical Sub-Committee may:

- assist in the development of draft project EAR guidelines for project related studies;
- review applications and project reports and provide technical advice to DIAND and proponent according to their specific mandate;
- evaluate and monitor public consultation undertaken by the proponent;
- provide recommendations for project screening in a timely manner;
- conduct Technical Sub-Committee meetings in an open and transparent manner; and
- as appropriate, and at the chair's discretion, invite observers to meetings.

The proponent may request a Technical Sub-Committee be struck to review specific project information. If a subcommittee is necessary, DIAND, in consultation with the proponent will select committee members and may develop Terms of Reference for the committee.

6.0 Consultants

It is expected that during the environmental assessment, DIAND may seek technical expertise to assist with the assessment. It is also recognized that the proponent would engage technical expertise or consultants as necessary to support the assessment.

- Both DIAND and the proponent have the right to select and engage technical experts or consultants as required during the assessment process;
- DIAND and the proponent acknowledge that technical experts or consultants used during the review will have suitable qualifications and that upon request their qualifications be available for assessment by any party;
- DIAND and the proponent would make best efforts to consult each other before selecting their own technical experts or consultants;
- The technical expert or consultant may participate in the Technical Sub Group meetings and will provide comments on the proponent documentation to DIAND and the proponent in a timely manner;
- The Project Manager will ensure that all technical comments provided by review consultants are reviewed and that the proponent is advised of accepted requirements; and
- If the proponent consultants make recommendations to the proponent, then the proponent shall indicate to DIAND which recommendations become requirements.

7.0 Environmental Assessment Harmonization

It is recognized that a number of authorizations or permits/licenses may be required for development to proceed. These approvals may be requirements of federal, territorial and First Nation's regulations and accompanying EA legislation. The proponent should also understand how the EA and regulatory processes interface.

- DIAND will consult with other federal authorities to identify all relevant RA's for the project assessment based on legislated requirements,
- DIAND will attempt to ensure that a single environmental assessment is coordinated and conducted pursuant to the "Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements";
- DIAND and/or the lead RA will inform the proponent of the lead RA and all other RA's involved in the project assessment, whichever is appropriate; and
- DIAND shall inform the proponent of necessary permits or authorizations required on a best efforts basis for the project and provide any administrative procedures within their specific mandates.

8.0 Project Registry

As an RA, DIAND is responsible for maintaining the Public Registry. All documents submitted by the proponent (the application and the project report), all comments of review agencies and RERC, technical consultants reports, and the full content of all comments received from the public must be filed in the Public Registry. In accordance with legislated requirements, DIAND would ensure:

- that all proponent related documentation is filed in the Public Registry and shall contain all records produced, collected or submitted with respect to the EA of a project;
- that all RERC and Technical Sub Group meetings are documented and records filed at the Project Registry; and
- that copies of all relevant documents filed in the Public Registry are available to the proponent.

It is recognized that some material may be deemed confidential pursuant to the federal *Privacy Act* or *Access to Information Act.*

9.0 Project Tracking

The assessment of major projects often involves the resolution of complex technical issues. Tracking of these issues and their resolution is important for overall project accountability and useful for briefing the Yukon Major Projects Advisory committee (YMPAC) on the status of major projects.

- DIAND shall track all project related issues, document the resolution of those issues, and provide a status report to the proponent upon request;
- DIAND shall indicate to the proponent the resolution of review issues for tracking; and
- the project issues tracking document shall be filed in the Public Registry.

10.0 Time Lines

The environmental assessment can be a lengthy process if time constraints are not imposed on all parties during the assessment. At present, there are no specific regulations governing time lines for the project EA process, except the "Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements" .

- DIAND and the proponent will develop specific time lines for the assessment during the various stages of the project;
- DIAND should establish time lines for a) submission of review comments by RERC and the public, and b) preparation of screening documentation and advise the proponent. DIAND as the principal RA is committed to work with the proponent to develop project specific time frames for the assessment;
- DIAND and/or the proponent will notify other parties to the agreement of any time line changes;
- The proponent should provide DIAND with expected time lines for completion of project documentation and notify DIAND of time line changes.

The Project Agreement should be used to adopt the following general time lines towards completion of the assessment.

- DIAND will provide the proponent with a time frame for completion of the project specific EAR Guidelines;
- DIAND will advise the proponent of the decision to establish a Technical Sub-Committee within 20 working days of the proponent's request for a Technical Sub-Committee;
- DIAND will work with RERC or the Technical Sub Committee to develop time frames for providing written assessments of proponent project submissions; and
- DIAND will place project related records on the public registry within seven days of distribution to RERC or other submissions to DIAND.

11.0 Resources and Funding

Completion of an assessment requires a serious commitment of resources and funding.. The assessment must be conducted in a cost effective manner and recognize that resources may be a limiting factor during the assessment. Insufficient resources dedicated to an EA may limit the RA's ability to approve a project, due to uncertainty.

- All parties shall demonstrate a commitment to participating in the EA process; and
- DIAND and the proponent will make best efforts to agree to a preliminary estimate of resources and costs necessary to complete the assessment.

12.0 Other Areas

The project agreement may be the vehicle to reach a common understanding on other project specific issues before proceeding with the assessment.

ATTACHMENT #7:

Yukon Major Project Advisory Committee (YMPAC)
Terms of Reference

Purpose of the Committee

YMPAC is established to ensure senior level officials monitor the smooth and efficient administration of the environmental assessment EA process associated with the review of major mine projects in Yukon. The Committee will track any administrative problems in the EA process with a view to assisting DIAND, and post-devolution, YTG, in facilitating the resolution of substantial controversial issues arising from the process. It will also be a senior level intergovernmental coordination/information forum. The Terms of Reference for YMPAC are as follows:

Scope

YMPAC is to inform its members and to advise the RDG Yukon Region by:

- providing a comprehensive awareness and understanding of the significance of the whole project;
- providing an intergovernmental forum to consider disputes on procedural matters in a friendly, cooperative fashion;
- recommending appropriate processes or alternative approaches to resolve disputes on impasses between the proponent and RERC for Level II projects;
- providing transitional understanding of EA technical, legal and administrative issues prior to devolution; and
- discussing and recommending on outstanding policy issues/concerns relating to the EA process.

After six months of operation, YMPAC will review the EA process and if necessary, will make further recommendations to DIAND for improvement or changes , including the possible dissolution of the Committee when it concludes that a fully satisfactory process is operational.

Membership

The Committee will initially consist of four members:

- RDG, DIAND Yukon Region and post-Devolution the DM (YTG) responsible for EA (Chair and spokesperson for YMPAC);
- Deputy Ministers, Economic Development and Renewable Resources, (YTG); and
- Senior Representative of CYFN or a representative of the First Nation whose Traditional Territory is affected by issues associated with the project.

Meeting Schedule and Format

- meetings will be held quarterly or when required;
- when a party raises an issue with the Chair or a member of the Committee, all members will be informed and collectively decide if, and when a meeting will take place;
- the Committee will decide whether the concerned party(ies) should be invited to the meeting;
- feedback to the initiating party will be as soon as practicable; and
- DIAND will provide the secretariat function and ensure that a record of actions and decisions of all meetings will be maintained.

Facilitating Dispute Resolution

YMPAC is the forum where serious disputes over the administrative and procedural aspects of the EA, between the project proponent and the agencies involved, will be referred. However, this forum should be used only in cases when:

- best attempts to resolve issues with DIAND Project Manager/Director of Environment or multiple Responsible Authorities (RA's) have failed; and when
- the ARDG or RDG have been consulted and no resolution has been achieved;
- the issue is resulting in unreasonable delays; or
- an affected party believes that the effective assessment of a project is being compromised.

If, or when, federal RA's in addition to DIAND are involved in a specific project, YMPAC may consult with other federal agencies on possible strategies for issue resolution as required.

Duties of the Chair

- call meetings;
- provide reports of the status of the EA of projects;
- receive requests to facilitate resolution of disputes;
- ensure that records are kept as a matter of public record (discretion will be used in protecting commercially sensitive information on the project provided by the proponent); and
- provide feedback to the parties regarding issue resolution, as soon as practicable